IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

OP.No. 1938 of 2003(E)

PETITIONER:

BHAVANA KUMAR, S/O. VELAYUDHAN,
AGED 26 YEARS, PARAMMEL HOUSE,
VALIAYAKUNNAM P.O., VALANCHERRY,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.S.SREEDHARAN PILLAI

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
MALAPPURAM DISTRICT.

2. THE DISTRICT EXECUTIVE OFFICER,
KARALA MOTOR TRANSPORT WORKERS
WELFARE FUND BOARD, MALAPPURAM.

3. THE TAHSILDAR, TALUK OFFICE,
TIRUR, MALAPPURAM DISTRICT.

4. THE DEPUTY TAHSILDAR (REVENUE
RECOVERY), TALUK OFFIC, TIRUR,
MALAPPURAM DISTRICT.

5. THE CIRCLE INSPECTOR OF POLICE,
VALANCHERRY POLICE STATION,
MALAPPURAM DISTRICT.

R1 & 3 TO 5 BY GOVERNMENT PLEADER SRI.PRADEEP
R2 BY ADV. SRI.P.RAMAKRISHNAN, SC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.3429 & 3430/2003 IN O.P. NO.1938/2003

DISMISSED:

15.11.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF SAID PARTNERSHIP AGREEMENT DT.11.6.2001 EXECUTED BY PETITIONER AND 3 OTHER PERSONS.

P2: TRUE COPY OF ENQUIRY NOTICE DT.22.2.2002 ISSUED BY R2 TO THE PETITIONER.

P3: TRUE COPY OF PROVISIONAL DETERMINATION ORDER DT.20.4.2002 ISSUED BY R2 TO THE PETITIONER.

P4: TRUE COPY OF DETAILED OBJECTION SUBMITTED BY PETITIONER BEFORE R2 ON 4.5.2002.

P5:.DO. BY PETITIONER'S FRIENDS BEFORE R2 DT.NIL.

P6: TRUE COPY OF DEMAND NOTICE DT.25.10.2002 ISSUEDBY R4 TO THE PETITIONER.

P7: TRUE COPY OF REPRESENTATION FILED BEFORE R1 BY PETITIONER ON 19.11.2002.

P8: TRUE COPY OF POSTAL ACKNOWLEDGEMENT CARDS ISSUED BY POSTAL DEPARTMENT.

P9: TRUE COPY OF ORDER DT.11.11.2002 ISSUED BY R1 TO THE PETITIONER.

P10: TRUE COPY OF SEIZURE MAHAZAR PREPARED BY R4 IN RESPECT OF VEHICLE BEARING REGISTRATION NO.KL-1-F-8548 DT.14.1.2003.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.1938 of 2003

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Dated this the 15th day of November, 2007.

JUDGMENT

The petitioner is challenging assessment and demand of Motor Transport Workers Welfare Fund for four employees for the reason that those persons are partners along with the petitioner owning and operating the vehicle. However, neither the petitioner nor the respondents are in a position to state as to whether the persons for whom demand is raised are registered workers or whether vehicle operation continued and demand is raised for subsequent years after 2001-2002. In the circumstances, I dispose of the O.P. with direction to second respondent to verify whether the workers for whom demand is raised are registered workers and whether they are continuously employed. If second respondent finds that workers for whom demand is raised are registered, then he will confirm the demand and if not, he will recall the demand as no contribution can be demanded for workers who are not beneficiaries of the Fund. The petitioner will produce copy of this judgment before the second respondent for compliance.

C.N.RAMACHANDRAN NAIR
Judge

pms